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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 MARCI MARTINELLI,  
16 individually and on behalf of the  
17 California public, S Civil No. 99-1867 WHA  
18 Plaintiff, SS {Rel'd. case: 99-0632 WHA}

19 v.  
20 TRANS UNION CORPORATION,  
21 a Delaware corporation;  
22 ACXIOM CORPORATION,  
23 a Delaware corporation;  
24 and Does 1 through 100, inclusive,

25 Defendants.

PLAINTIFF  
MARTINELLI'S FIRST  
REQUEST FOR  
PRODUCTION OF  
DOCUMENTS

26 MICHAEL ROSEN, on behalf of  
27 himself and all other persons  
28 similarly situated,

Plaintiff,

v.

1 TRANS UNION CORPORATION,

2 Defendant.

§  
§  
§  
§  
§

5 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, plaintiff Marci  
6 Martinelli ("Plaintiff") hereby requests that defendant Trans Union Corporation  
7 ("Trans Union") produce for inspection and copying the following documents and  
8 other things, within its possession, custody or control. The production shall occur at  
9 the offices of Righetti Law Firm, 220 Montgomery Street, Suite 1650, San Francisco,  
10 California, or at such other location as is agreed to by counsel for the parties, on  
11 October 26, 1999.  
12

13 **DEFINITIONS AND INSTRUCTIONS**

14 The following requests are subject to the definitions set forth below:

15 A. "Trans Union" refers to Trans Union, its predecessors, directors,  
16 officers, agents, servants, employees, attorneys, subsidiaries, affiliates, divisions or  
17 any other related companies or divisions, including PerformanceData, Marketing  
18 Services, Trans Mark and Trans Union Lists.

19 B "CRONUS" refers to Trans Union's credit reporting database.

20 C. "Master File" refers to all original, copy, archived or predecessor  
21 versions of Trans Union's database, batch file or electronically-stored information  
22 for target marketing, including, but not limited to, lists entitled "Master File," "Base  
23 List" and "List Master File," as well as the "MasterFile" referred to on  
24 PerformanceData's web site located at HYPERLINK  
25 <http://www.performancedata.com> www.performancedata.com.

26 D. "Performance Base file" refers to all original, copy, archived or  
27 predecessor versions of Trans Union's database referred to as "PerformanceBase" on

1 its web site located at HYPERLINK <http://www.performancedata.com>  
2 www.performancedata.com, or referred to as "RelationBase."

3 E. "New Issues file" refers to all original, copy, archived or predecessor  
4 versions of Trans Union's database, batch file or electronically-stored information  
5 which is created by selecting from CRONUS names and addresses of consumers  
6 with at least two tradelines, one of which has an open date within the last 90 days.

7 F. "Target Marketing list" refers to lists of names and addresses and/or  
8 telephone numbers of consumers which are provided, distributed or otherwise  
9 disclosed to Trans Union's target marketing customers or their agents who are  
10 offering goods and services to consumers. This definition includes "target  
11 marketing list" as that term is used in Appellant-Respondent Trans Union  
12 Corporation's Public Record Version Brief In Support Of Appeal in Case No D-9255,  
13 before the Federal Trade Commission at page 10 ("PerformanceData provides target  
14 marketing lists of names and addresses to its customers who are offering goods and  
15 services to consumers"), but does not include lists disclosed for the purpose of  
16 making a "firm offer of credit or insurance" as defined in the Fair Credit Reporting  
17 Act, 15 U.S.C. §1681a(l).

18 G. "Target marketing products" refers to models, estimates and other  
19 similar products used by Trans Union to generate lists of names and addresses  
20 and/or telephone numbers of consumers which are provided, distributed or  
21 otherwise disclosed to Trans Union's target marketing customers or their agents  
22 who are offering goods and services to consumers, including but not limited to such  
23 products as E-VAL, PIC, P\$YCLE, SOLO, TIE and any other products used to estimate  
24 the home equity, net worth or other similar financial characteristics of consumers.

25 H. "Trans Link" refers to all current or predecessor versions of Trans  
26 Union's product which "reverse appends" a name and address with a bank card  
27 number.

1       I. "Document" or "documents" shall mean the original and all non-  
2 identical copies of written, printed, typed and visually, orally or electronically  
3 reproduced material of any kind, whether or not privileged, which is in the  
4 possession, custody or control of Trans Union, including, but not limited to,  
5 writings, drawings, graphs, charts, photographs, electronic ("E-mail")  
6 communications, computer tapes and other data compilations from which  
7 information can be obtained or translated, if necessary, by Trans Union through  
8 detection devices into reasonably usable form, including computer databases, batch  
9 files or other electronically-stored information.

10      J. "FTC Proceeding" shall mean the proceeding before the Federal Trade  
11 Commission styled In the Matter of Trans Union Corporation, Docket No. 9255.

12      K. With the exception of requests nos. 15 through 30, the time period for  
13 these requests is January 1, 1995 to the present. The time period for requests nos. 15  
14 through 30 is December 15, 1992 to the present.

15      L. The singular shall include the plural and the plural shall include the  
16 singular.

17      M. As used herein, the conjunctive term "and" shall include the  
18 disjunctive term "or," and vice versa.

19      N. Should Trans Union withhold any document sought by any of the  
20 following requests, Trans Union shall, in its written response, describe such  
21 document by stating the following as to each such document: (1) the document date;  
22 (2) the name of the person(s) who signed, sent or prepared the document; (3) the  
23 name of the person(s) to whom the document was addressed or copied; (4) the  
24 general nature or description of the document (i.e., letter, memorandum, minutes  
25 of a meeting, etc.) and the number of pages of which it consists; and (5) the legal  
26 basis for withholding the document and a description of the subject matter of the  
27  
28

1 document sufficient to show why the legal basis for withholding the document is  
2 applicable in each instance.

3 O. Plaintiff's request of any documents sought herein shall not constitute  
4 a concession that any such documents should not have been produced in  
5 connection with Trans Union's initial disclosures under Fed.R.Civ.P. 26 or Civil  
6 L.R. 16-5.

7 REQUESTS

8 1. All documents reflecting or referring to communications between  
9 Trans Union and its target marketing customers that concern, evidence, reflect or  
10 refer to target marketing lists.

11 2. A hard copy or printout of all information pertaining to Plaintiff in  
12 CRONUS.

13 3. A hard copy or printout of all information pertaining to Plaintiff in  
14 each copy or version of Trans Union's Master File.

15 4. A hard copy or printout of all information pertaining to Plaintiff in  
16 each copy or version of Trans Union's Performance Base File.

17 5. A hard copy or printout of all information pertaining to Plaintiff in  
18 each copy or version of Trans Union's New Issues File.

19 6. One copy of each version of Trans Union's Master File.

20 7. One copy of each version of Trans Union's Performance Base File  
21 which has been used to generate target marketing lists for purposes other than  
22 making a "firm offer of credit or insurance" as defined in the Fair Credit Reporting  
23 Act, 15 U.S.C. §1681a(l).

24 8. One copy of each version of Trans Union's New Issues File.

25 9. All documents reflecting or referring to the identity of Trans Union's  
26 target marketing customers.

1           10. All documents reflecting or referring to the identity of the third-party  
2 mailers to whom Trans Union provides or has provided its target marketing lists.

3           11. All documents reflecting or referring to the target marketing lists Trans  
4 Union's target marketing customers or their agents have purchased, rented or  
5 otherwise obtained from Trans Union which show the selects, indicators, extracts  
6 and/or other criteria used to generate said target marketing lists, including but not  
7 limited to all orders, invoices, receipts, confirmations and other written  
8 communications with said customers or their agents.

9           12. All documents reflecting or referring to the target marketing lists Trans  
10 Union's target marketing customers or their agents have purchased, rented or  
11 otherwise obtained from Trans Union, including but not limited to all orders,  
12 invoices, receipts, confirmations and other written communications with said  
13 customers or their agents which show the target marketing products (e.g., "E-VAL,"  
14 "PIC," "P\$YCLE," "SOLO" and "TIE") used to generate said target marketing lists.

13. All documents reflecting a target marketing list which has been or will  
14 be disclosed to a third party and which contains Plaintiff's name.

17        14. All documents reflecting a target marketing list which has been or will  
18 be disclosed to a third party and which contains the name of consumer(s) whose  
19 addresses are located in California.

20 15. All documents produced by Trans Union in the FTC proceeding.

16. All documents produced by the complaint counsel in the FTC  
proceeding.

23 17. All documents produced by third parties in the FTC proceeding.

24        18. All protective orders entered by the parties or any third parties in the  
25 FTC proceeding.

26        19. All privilege logs exchanged or disclosed by the parties or by any third  
27 parties in the FTC proceeding.

- 1        20. All written discovery responses by Trans Union in the FTC proceeding.
- 2        21. All written discovery responses by complaint counsel in the FTC
- 3        proceeding.
- 4        22. All documents reflecting expert reports which were exchanged or
- 5        disclosed in the FTC proceeding.
- 6        23. All transcripts of testimony (deposition, trial, etc.) of Trans Union
- 7        personnel, Trans Union witnesses, Trans Union experts, complaint counsel
- 8        witnesses, complaint counsel experts, third-party personnel, third-party witnesses
- 9        and third-party experts generated in the FTC proceeding.
- 10      24. All declarations and affidavits of Trans Union personnel, Trans Union
- 11      witnesses, Trans Union experts, complaint counsel witnesses, complaint counsel
- 12      experts, third-party personnel, third-party witnesses and third-party experts
- 13      submitted in the FTC proceeding.
- 14      25. All exhibits offered, entered and/or received into evidence in the trial
- 15      before Judge Timony in the FTC proceeding.
- 16      26. All exhibits marked and used at any depositions in the FTC proceeding.
- 17      27. All documents reflecting or referring to Trans Union's continuing or
- 18      discontinuing, or altering its practices pertaining to, the use of any selects, indicators,
- 19      extracts or other criteria in connection with its target marketing list business.
- 20      28. All documents reflecting or referring to Trans Union's continuing or
- 21      discontinuing, or altering its practices pertaining to, the use of any target marketing
- 22      products in connection with its target marketing list business.
- 23      29. All documents reflecting or referring to the FTC's 1993 consent order
- 24      with TRW Inc. regarding target marketing lists.
- 25      30. All documents reflecting or referring to whether or not the disclosure,
- 26      sale and/or distribution of any of Trans Union's target marketing lists or target
- 27      marketing products violates the Fair Credit Reporting Act ("FCRA"), the Consumer

1 Credit Reporting Agencies Act ("CCRA") or any other federal or California state  
2 law.

3 31. All documents reflecting or referring to Trans Union's continuing or  
4 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or  
5 distribution of any target marketing lists or target marketing products in or around  
6 October 1997.

7 32. All documents reflecting or referring to Trans Union's no longer  
8 including certain information in its Master File commencing in or around October  
9 1997.

10 33. All documents reflecting or referring to Trans Union's continuing or  
11 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or  
12 distribution of any target marketing lists or target marketing products in or around  
13 January 1998.

14 34. All documents reflecting or referring to Trans Union's no longer  
15 including certain information in its Master File in late 1997 or early 1998.

16 35. All documents reflecting or referring to the creation in late 1997 or  
17 early 1998 of the Performance Base file.

18 36. All documents reflecting or referring to Trans Union's continuing or  
19 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or  
20 distribution of any target marketing lists or target marketing products in or around  
21 April 1998.

22 37. All documents reflecting or referring to Trans Union's no longer  
23 including certain information in its Master File in or around April 1998.

24 38. All documents referring to the 1996 amendments to the FCRA which  
25 became effective October 1, 1997 and to Trans Union's sale, disclosure or distribution  
26 of its target marketing lists or target marketing products.

1       39. All documents reflecting, referring or relating to Trans Union's  
2 consideration of the "\$2500 per occurrence penalty" imposed by the 1996  
3 amendments to the FCRA which became effective October 1, 1997.

4        40. All documents reflecting, referring or relating to Trans Union's  
5 consideration or discussion of the fact that, with the 1996 amendments to the FCRA  
6 which became effective October 1, 1997, Trans Union had gone from an  
7 environment where the worst thing that could happen is that Trans Union would  
8 have to stop selling certain target marketing lists to an environment where there  
9 were significant financial penalties.

10        41. All documents reflecting or referring to the building of the Master File  
11 in December 1997.

12        42. All documents reflecting or referring to consumer privacy concerns or  
13 expectations regarding use of credit information collected and stored by credit  
14 reporting agencies, including any market, consumer or survey research regarding  
15 same.

16        43. All documents reflecting or referring to Trans Union's advertising,  
17 promotion or marketing of its target marketing business, databases and products.

18 44. All documents reflecting Trans Union's gross revenues from the  
19 distribution and sale of target marketing lists and target marketing products.

20        45. All documents reflecting Trans Union's net profits from the  
21 distribution and sale of target marketing lists and target marketing products.

22 46. All documents produced in response to any discovery requests in the  
23 Frey case.

24        47. All documents reflecting organizational charts for Trans Union and its  
25 predecessors.

26        48. All documents reflecting organizational charts for PerformanceData  
27 and its predecessors.

1       49. All documents reflecting lists of the titles and responsibilities of all  
2 employees of PerformanceData and its predecessors

3       50. All documents reflecting, referring or relating to Trans Union's privacy  
4 protocol, except for documents reflecting, referring or relating thereto which address  
5 only security measures available to prevent unauthorized access to Trans Union's  
6 databases.

7       51. All trial witness lists and trial exhibit lists submitted in the FTC  
8 proceeding.

9       52. All documents reflecting or referring to the extent of consumers'  
10 awareness of their right to opt-out of Trans Union's target marketing lists.

11       53. All documents reflecting or referring to Trans Union's efforts to make  
12 consumers aware of their right to opt-out of Trans Union's target marketing lists.

13  
14 Dated: September 16, 1999

RIGHETTI LAW FIRM

15  
16 By \_\_\_\_\_  
17 Matthew Righetti  
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Matthew Righetti  
Attorneys for plaintiff

1 PROOF OF SERVICE

2 I, Dawn Taylor, declare that I am employed in the County of San  
3 Francisco, California. I am over the age of eighteen (18) years and not a party to  
the within cause; my business address is 220 Montgomery St. Suite 1650, San  
4 Francisco, California 94104.

5 On September 20, 1999, I caused to be served the attached:

6 PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

7 in said cause, by placing a true copy thereof enclosed in a sealed, envelope  
8 addressed as follows:

9 D Ronald Ryland, Esq.  
John D. Pernick, Esq.  
10 SHEPPARD, MULLINS, RICHTER & HAMPTON, LLP  
Four Embarcadero Center, 17th Floor  
11 San Francisco, CA 94111  
12 Fax (415)434-3947

13 Roger L. Longtin, Esq.  
William Campell, Jr., Esq.  
14 Michael O'Neil, Esq.  
Elizabeth R. Bacon Ehlers, Esq.  
15 RUDNICK & WOLFE  
203 North La Salle Street, Suite 1800  
16 Chicago, Illinois 60601  
17 Fax 312-630-7319

18 Kevin J. McInerney, Esq.  
18124 Wedge Parkway, #503  
19 Reno, NV 89511  
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21 Chris Micheletti, Esq  
Furth, Fahrner & Mason  
22 Furth Building, Suite 1000  
23 201 Sansome Street  
San Francsico, CA 94104  
24 Fax (415) 982-2076

25  
26  
27  
28

1  
2  
3 Amy Stewart, Esq.  
4 Rose Law Firm  
5 120 East Fourth St.  
6 Little Rock, AR 72201  
7 Fax (501) 375-1309

8  
9  
10 (xxxx) BY MAIL I placed each such sealed envelope, with postage  
11 thereon fully prepaid, for collection and mailing at San Francisco, California,  
12 following ordinary business practices. I am readily familiar with the practice of  
13 the Righetti Law Firm for processing of correspondence, said correspondence is  
14 deposited in the United States Postal Service the same day as it is placed for  
15 processing.

16 ( ) BY PERSONAL SERVICE caused each such envelope to be  
17 delivered by hand to the addressee(s) noted above.

18 ( ) BY FACSIMILE I caused the contents of said envelope to be  
19 delivered by Facsimile machine to the number indicated after the address(es)  
20 noted above.

21 I declare under penalty of perjury that the foregoing is true and correct.  
22 Executed on September 20, 1999, at San Francisco, California.

23  
24 Dawn Taylor  
25  
26  
27  
28

